



FRANKE v CITY OF ST. LOUIS

Justice and the Old Courthouse Trial Packet

Grades 4-12



Prepared by the Museum Education Office

INTRODUCTION

FRANKE TRIAL

Your “Franke Trial Packet” includes a copy of the script of the Franke trial that your group will be presenting, and also some information about the real trial. We ask that before your visit, you have your group familiarize themselves with the script and also choose their parts for the reenactment which will take place as part of your program. Please make copies of the script and bring them with you on the day of your program. Members of your group who do not have specific parts may serve as part of the jury.

The trial in your packet is based on an actual case brought to court in 1888 at the Old Courthouse. Frederick Franke was injured in St. Louis when part of a building fell on his head as he was walking. He died as a result of his injuries. His mother, Julia Franke, sued the owner of the building and the city of St. Louis for damages. Each group taking part in the reenactment will be allowed to reach their own verdict in this case. The decision is up to you. At the end of the program, the ranger assigned to your group will discuss your reenactment of the trial and the significance of the Franke Case.

Any questions or comments on this Teacher Activity Guide are welcome. Contact the Director of Education at:

Jefferson National Expansion Memorial
11 North Fourth Street
St. Louis, MO 63102
(314) 655-1600



List of Characters In Order of Appearance

Narrator

Bailiff

The Honorable Daniel Dillon, Judge

Clerk

Members of the Jury

Mr. Rassieur, attorney for the plaintiff

Mr. Bell, attorney for the City of Saint Louis and Mrs. Webb

Dr. Armenius F. Bock, physician

Mrs. Julia Franke, plaintiff

Daniel Walsh, police officer for the City of Saint Louis

John T. Hester, building inspector for the City of Saint Louis

Mrs. Rebecca Webb, defendant

Jury Foreperson



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- NARRATOR: This trial is based on an actual case heard in this courthouse in 1888. For this reenactment, some participants were left out and some statements were combined. However, the basic questions of the case remain the same. Listen carefully as the trial unfolds.
- BAILIFF: All rise! (*Everyone stands.*) The Circuit Court of the City of Saint Louis is now in session, the Honorable Judge Daniel Dillon presiding. (*Judge Dillon enters and sits.*)
- JUDGE: You may be seated. (*Everyone sits.*) The clerk will now swear in the jury.
- CLERK: (*Stand.*) Will the members of the jury please stand and raise your right hands? (*Jury stands and all raise right hands.*) Do you swear you will reach a fair and impartial verdict based only upon what you hear in court today?
- JURY: We will.
- CLERK: You may be seated (*Return to seat. Jury sits.*)
- JUDGE: Julia Franke is suing Rebecca Webb and the City of Saint Louis for damages resulting from the death of her son, Frederick. Mrs. Franke alleges a large stone from the fourth story of 407 North Fourth Street fell and struck her son on the head. She is accusing each defendant of failing to warn of the dangerous condition of the building which resulted in the death of her son.
- Rebecca Webb is the owner of the building and the City of Saint Louis inspects buildings. Each denies they did anything to cause any injuries or damages. Are the attorneys ready?
- ATTORNEYS: We are, Your Honor.
- JUDGE: The plaintiff will make an opening statement.



- RASSIEUR: (*Stand and address jury.*) Good day, members of the jury. The evidence will show that Julia Franke's son, Frederick, died from injuries he suffered when a large stone fell from 407 North Fourth Street and struck him on the head as he was walking along the sidewalk. Three weeks before there had been a fire which destroyed the inside and made the walls weak and unsafe. Neither defendant acted to make the building safe, nor warn people who use the sidewalks that it was unsafe. Thank you. (*Sit.*)
- BELL: (*Stand and address jury.*) Hello. My name is Mr. Bell. I represent the City of Saint Louis and Mrs. Webb. Yes, a large stone fell from 407 North Fourth Street and broke into pieces on the sidewalk. Did it strike Frederick Franke? No one saw the stone hit him. His scalp was not cut and there was very little blood. He even walked home shortly after the stone fell! Both defendants, Rebecca Webb and the City of Saint Louis, deny they did anything to cause Frederick to be hurt. Thank you. (*Sit.*)
- JUDGE: At this time the plaintiff will call the first witness.
- RASSIEUR: The plaintiff calls Doctor A.F. Bock.
- BAILIFF: Doctor A.F. Bock to the stand. (*Dr. Bock comes forward to witness stand.*)
- CLERK: (*Stand.*) Raise your right hand. (*Dr. Bock raises his right hand.*) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?
- DR. BOCK: I do. (*Clerk sits. Dr. Bock sits in witness stand.*)
- RASSIEUR: (*Stand.*) Did you treat Frederick Franke for a blow to the head?
- DR. BOCK: Yes, sir, on February 29th, and March 1st and 2nd.



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- RASSIEUR: Please tell the jury what you found, Dr. Bock.
- DR. BOCK: I arrived the day the injury occurred, at five or six p.m. I found Frederick in a great deal of pain and partially unconscious. It looked like he had a fractured skull.
- RASSIEUR: How does one treat a fractured skull?
- DR. BOCK: Head injuries are always serious. One can die from them. I visited three times per day to see how he was doing. When he got worse, he was so deeply unconscious that when I shined a light into his eyes his pupils did not respond. There was a large swelling on the right side of his head, but the skin was not broken. When I felt Frederick's head I found that the skull was cracked.
- RASSIEUR: And what did you do then?
- DR. BOCK: I decided the only chance Frederick had was an emergency operation. He was bleeding inside and the blood had nowhere to go. It filled up the spaces inside his skull and put pressure on his brain. I used a chisel and hammer to open the skull.
- RASSIEUR: Excuse me, Doctor Bock, did you say a chisel and hammer?
- DR. BOCK: Yes, sir, I used a chisel and hammer to open the skull. I found a horrible fracture. I removed skull fragments and used a spoon-like surgical tool to scoop out the blood clots. I removed almost one handful of clotted blood. I also put in a tube to drain out more blood.
- RASSIEUR: What could cause a person's skull to become horribly fractured?
- DR. BOCK: In some cases a broad, flat object, such as a board or baseball bat, can fracture the skull and cause fatal injuries.



RASSIEUR: Thank you, Doctor Bock. (*Sit.*)

JUDGE: Does the defense wish to cross-examine this witness?

MR. BELL: (*Stand.*) Doctor Bock, when you first examined the boy, how did you know he had a skull fracture when there were no cuts, bruises, or abrasions?

DR. BOCK: Frederick told me a large stone fell on his head and he told his mother the same thing earlier that day.

BELL: Did Frederick say where the accident occurred, at which building?

DR. BOCK: No, sir.

BELL: Can a stone fall from the top of a building, strike a boy on the head, seriously injure him, and not show any blood or cuts?

DR. BOCK: Yes, sir, it is possible. The injury can be inside the head and cause the brain to swell without cutting the skin.

BELL: Doctor Bock, would Frederick Franke have survived if you could have operated earlier?

DR. BOCK: It is possible. On the first day, I suspected the fractured skull and monitored it. When it did not improve, I cut the scalp and saw that there was more damage inside the skull. I did what I could with the hope that Frederick would live.

BELL: Could a fracture and symptoms of this sort have been caused by the boy falling down and striking his head on the pavement?

DR. BOCK: No, sir. You did not see this injury. It was simply terrible. I do not think Frederick could fall down and break his head that way.



- BELL: If his injury was so terrible, how could Frederick walk home?
- DR. BOCK: Well, the blood oozes out drop by drop, and presses on the brain more and more. Since Frederick was able to walk, no one would have thought of operating immediately after the accident.
- BELL: I have no further questions. (*Sit.*)
- JUDGE: The witness may step down. (*Dr. Bock steps down.*) Does the plaintiff wish to call another witness?
- RASSIEUR: The plaintiff calls Julia Franke to the stand.
- BAILIFF: Julia Franke to the stand. (*Mrs. Franke approaches the witness stand.*)
- CLERK: (*Stand.*) Raise your right hand. (*Mrs. Franke raises her right hand.*) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?
- MRS. FRANKE: I do. (*Clerk sits. Mrs. Franke takes the witness stand.*)
- RASSIEUR: How old was your son, Frederick, when he died?
- MRS. FRANKE: My Freddie was fourteen years and ten months.
- RASSIEUR: Please tell the jury about the accident on February 29th.
- MRS. FRANKE: Freddie came home a little after twelve o'clock noon. I said, "What is the matter that you come home?" He said, "A big stone fell down on my head and it hurts me awful bad. It happened at a big building on Fourth Street." I told him to lie on the bed. The doctor was coming that day to see my sick husband. I figured I could ask the doctor to look at Fred while he was there.
- RASSIEUR: When did Doctor Bock arrive?



MRS. FRANKE: Between five and six o'clock.

RASSIEUR: What was Frederick's condition then?

MRS. FRANKE: Freddie's face was bruised and he had black around his eyes like a raccoon. At first, Freddie answered Doctor Bock's questions about what happened, then he seemed to go out of his senses.

RASSIEUR: What did you do to treat Frederick?

MRS. FRANKE: Doctor Bock said to put ice on Freddie's head. It helped a little, but then it got much worse. Doctor Bock operated on March 2nd, but it was too late. Freddie died later that day.

RASSIEUR: Do you think the doctor did everything possible to save Fred?

MRS. FRANKE: Yes, I do.

RASSIEUR: Thank you, Mrs. Franke. (*Sit.*)

JUDGE: Does the defense wish to cross-examine this witness?

BELL: (*Stand.*) Mrs. Franke, why didn't you summon a doctor right away when you found out your son was injured?

MRS. FRANKE: The doctor was already coming to see my sick husband. Freddie walked home after the rock hit his head and told me what happened. Only later, after Doctor Bock examined him, was I worried that Freddie was injured seriously.

BELL: Thank you, Mrs. Franke. I have no further questions. (*Sit.*)

JUDGE: The witness may step down. (*Mrs. Franke steps down.*) Does the plaintiff wish to call another witness?

RASSIEUR: The plaintiff calls Daniel Walsh to the stand.



BAILIFF: Daniel Walsh to the stand. (*Walsh approaches the witness stand.*)

CLERK: (*Stand.*) Raise your right hand. (*Officer Walsh raises his right hand.*) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

WALSH: I do. (*Clerk sits. Officer Walsh takes the witness stand.*)

RASSIEUR: (*Stand.*) Please state your occupation, Mr. Walsh.

WALSH: I am a police officer for the City of Saint Louis.

RASSIEUR: Officer Walsh, where were you working last February?

WALSH: Between Fourth and Sixth Streets, and Olive and Washington.

RASSIEUR: Were you near 407 North Fourth Street when a stone fell and injured a boy?

WALSH: Yes, sir.

RASSIEUR: Were there any signs or warnings not to walk near number 407?

WALSH: No, sir, nothing.

RASSIEUR: Please tell the jury what you saw.

WALSH: I was standing at the corner of Fourth and Locust and heard a crash up the street. I turned and saw a lot of dust rising from the sidewalk. I saw someone lying there and ran over to help. A man carried a boy into the drug store across the street. After the crowd scattered, I went in the drug store and saw the boy.

RASSIEUR: What was his condition?

WALSH: He had been revived, but there was blood at his mouth.



RASSIEUR: From which part of the sidewalk did the man pick up Frederick?

WALSH: In the middle of the sidewalk, in front of number 407.

RASSIEUR: Did you look up and see where the stone fell from?

WALSH: Yes, sir. It fell from the fourth story, between the north and middle windows.

RASSIEUR: How big was the rock that struck Frederick?

WALSH: From the size of the hole, it appeared to be about six feet long and two and a half feet wide.

RASSIEUR: And what was the condition of the building?

WALSH: The floors were nearly all burned out, the window frames were scorched, and the windows were all broken out.

RASSIEUR: Was the burned material being taken away?

WALSH: Yes, sir, and men were working on the roof.

RASSIEUR: Since debris was being removed and men were working on the roof, were there any warnings posted to look out below?

WALSH: No, sir.

RASSIEUR: Thank you, Officer Walsh. (*Sit.*)

JUDGE: Does the defense wish to cross-examine this witness?

BELL: (*Stand.*) Officer Walsh, did you feel safe walking under a building weakened by fire where workmen could drop a tool or part on you?

WALSH: It never occurred to me.



BELL: How far did the stone fall?

WALSH: It fell thirty-five to forty feet.

BELL: And you said it was six feet by two and a half feet?

WALSH: Yes, sir.

BELL: How much would a stone of that size weigh? Two or three hundred pounds?

WALSH: It must have weighed that.

BELL: A stone of that size, coming down and striking a person on the head, would have crushed the person, wouldn't it?

WALSH: If it struck him directly.

BELL: I have no further questions. (*Sit.*)

RASSIEUR: Thank you, Officer Walsh.

JUDGE: The witness may step down. (*Officer Walsh steps down.*) Does the plaintiff wish to call another witness?

RASSIEUR: The plaintiff has no further witnesses. We rest our case.

JUDGE: Very well. The defendants will call their first witness.

BELL: The defendants call John T. Hester to the stand.

BAILIFF: John T. Hester to the stand. (*Mr. Hester approaches the witness stand.*)

CLERK: (*Stand.*) Raise your right hand. (*Mr. Hester raises his right hand.*) Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?



HESTER: I do. (*Clerk sits. Mr. Hester takes the witness stand.*)

BELL: (*Stand.*) Mr. Hester, what is your occupation?

HESTER: I have been a building inspector for the City of Saint Louis for two years. Before that I was a bricklayer for thirty-three years.

BELL: Are you familiar with the building at 407 North Fourth?

HESTER: Yes, sir. I inspected that building two days after the fire to check the condition of the walls.

BELL: Were the walls safe enough for persons using the sidewalk?

HESTER: Yes, sir.

BELL: How did you determine the safety of this building?

HESTER: I went to each floor and looked out of every window to see if any of the stones were out of line. Each time I did this, the stones lined up properly by sight.

BELL: How many times did you inspect the building?

HESTER: I made four inspections between the fire and the time of the accident. The fourth was one week before the stone fell.

BELL: Why inspect four times?

HESTER: A building may shift after a fire. With each inspection I checked to see whether the walls had shifted and they had not.

BELL: Thank you, Mr. Hester. (*Sit.*)

JUDGE: Does the plaintiff wish to cross-examine this witness?

RASSIEUR: (*Stand.*) Mr. Hester, how else can fire affect a stone building?



- HESTER: There are several ways. The heat can weaken the fasteners that anchor the stone to the brick. Or the stone may weaken or crack in the high temperatures. The walls may shift when the connecting joists are burnt or removed.
- RASSIEUR: Did you check all of these possibilities?
- HESTER: Well, I checked the anchor and it was still in the brick wall. I did not check the condition of the stone.
- RASSIEUR: Could the workers removing debris after your last inspection have caused the walls to shift?
- HESTER: Yes, they could have.
- RASSIEUR: As a building inspector, do you have the authority to post warnings or barricades at unsafe buildings?
- HESTER: Yes, I do.
- RASSIEUR: Since you were not certain it was completely safe, why did you not take precautions and order warnings posted for people passing by on the sidewalk?
- HESTER: I noticed no shift in the walls when I inspected them. I did not think it was necessary to post signs.
- RASSIEUR: Thank you, Mr. Hester. I have no further questions. (*Sit.*)
- JUDGE: The witness may step down. (*Mr. Hester steps down.*) Do the defendants wish to call another witness?
- BELL: The defendants have no further witnesses, Your Honor. We rest our case.
- JUDGE: Very well. We shall now hear closing arguments.



RASSIEUR: (*Stand and address jury.*) Members of the jury, as we have heard, Frederick Franke received a glancing blow on his head from a large stone which fell from 407 North Fourth Street. Frederick slipped into unconsciousness because the injury, a fractured skull, had caused his brain to swell and bleed.

Why did this stone fall and strike him? There was a fire at #407 three weeks before he was fatally injured. The fire burned out the floors and weakened the walls, which made the building unsafe. The defendants failed to make the building safe or warn about the unsafe condition.

The plaintiff asks that you find Rebecca Webb, the owner of the building, **GUILTY** for failing to keep her property safe and in good repair. Mrs. Franke also asks that you find the City of Saint Louis **GUILTY** for failing to protect her son from this dangerous building.

Please remember an innocent boy, Frederick Franke, died from a devastating blow to the head. He would still be alive today, earning money to help his family, if Mrs. Webb and the City of Saint Louis had warned of the dangerous condition of the building. Thank you. (*Sit.*)

JUDGE: The defendants will now give closing statements. Mr. Bell?

BELL: (*Stand and address jury.*) It is unfortunate that Frederick is dead. However, Frederick Franke's mother is suing Mrs. Webb only because she owns the building. There is no evidence that the wall was dangerous. Mrs. Webb did not directly cause Frederick's death. I urge you to find Mrs. Webb **NOT GUILTY**.

The City of Saint Louis is not at fault for his death. Mr. Hester, the city building inspector, inspected the walls four times after the fire. The city's employees did not contribute to



Frederick's death, but carried out their jobs as they were trained to do. I ask that you find the City of Saint Louis **NOT GUILTY**. Thank you. (*Sit.*)

JUDGE: Members of the jury, the plaintiff, Julia Franke, is suing two defendants, Rebecca Webb and the City of Saint Louis. It is your duty to decide whether one, both, or neither of the defendants is responsible for his death using the testimony and evidence presented.

1. If you believe that Frederick Franke's death was not caused by a stone falling from 407 North Fourth Street, but was due to some other cause, you should find **BOTH** of the defendants **NOT GUILTY**.
2. If you believe that Mrs. Webb neglected to inform passersby of the weak and dangerous condition of the building, you should find her **GUILTY**.
3. If you believe that the failure of the city to find and warn people of the danger was the cause of Frederick's death, then you should find the City of St. Louis **GUILTY**.

NARRATOR: At this time in a real trial, the Bailiff would lead the jury out of the courtroom to a private room where they would discuss the evidence. The Bailiff would stand outside until they agree on a verdict, then lead the jury back to the courtroom.

However, we want everyone to see the jury deliberation process so this jury will remain in the courtroom. **Let's listen quietly so as not to disturb the deliberation.**

(Jury deliberates. Bailiff stands near the jury to prevent possible jury tampering.)

JUDGE: Has the jury reached a verdict?

FOREPERSON: (*Stand.*) Yes, Your Honor, we have.

CLERK: The defendants will please rise. (*Mrs. Webb and Mr. Bell stand and face the jury.*)



FOREPERSON: We, the jury, find the defendant, Rebecca Webb, **GUILTY / NOT GUILTY.**

We find the defendant, the City of Saint Louis, **GUILTY / NOT GUILTY.**

(If both are not guilty, skip to CONTINUE HERE.)

(READ THIS IF EITHER VERDICT IS GUILTY)

JUDGE: *(Say guilty defendant's name/s.)* has been found **GUILTY** for failing to protect Frederick Franke from the danger at 407 North Fourth. Mrs. Franke will be awarded damages. This court is adjourned. *(Strike gavel twice.)*

(CONTINUE HERE)

JUDGE: Members of the jury, the court thanks you for your time and attention to this case. This court is adjourned. *(Strike gavel twice.)*

NARRATOR: In November 1888, the jury's verdict found the City of Saint Louis and Rebecca Webb liable for the death of Frederick Franke due to negligence. The jury awarded \$1,846.66 to the plaintiff, Julia Franke, for the loss of her son, Frederick.

The City and Mrs. Webb appealed to the Missouri Supreme Court. In June 1892, the Missouri Supreme Court upheld the verdict. This means that the higher court agreed with the first verdict. Mrs. Webb and the City of St. Louis had to pay Mrs. Franke damages for the loss of her son.

BAILIFF: *(Stand.)* All rise. *(The judge exits the room.)* You are dismissed.

APPENDIX THE FRANKE TRIAL

The real case of *Julia Franke v Hugh R. Hildreth, Rebecca Webb, and the City of St. Louis* began in the April Term of the St. Louis Circuit Court in 1888. The case was heard in Circuit Court #4, which at that time was located in the North Wing of the Old Courthouse. Today, this room is one of our exhibit galleries, “St. Louis: Entering the 20th Century.” In the real case there were three defendants. Each was considered separately. In the original verdict, the lower court jury found Hugh R. Hildreth, the tenant of the building, innocent of wrongdoing or negligence in the case. The jury found Rebecca Webb, the owner of the building, guilty, and the City of St. Louis, which should have inspected the building properly and posted signs about the danger, also guilty. Mrs. Webb and the City together had to pay \$1,846.66. This sounds like a small amount, but in today’s money this sum would equal at least 20 times its 1888 value, or \$36,933.20.

This was not the end of the story, however. Lawyers for Mrs. Webb and the City of St. Louis **appealed** this case. This means that they asked a higher court (in this case, the Missouri Supreme Court) to look at the case and decide whether, under the law, they had received justice. On July 6, 1892, the decision was read in the Franke case. The Missouri Supreme Court was split about the Franke case. Four of the five justices thought the lower court decision was right and should be **upheld**. One of the five justices thought the jury in the lower court was wrong, and thought the decision should be **overturned**. However, since four of the five justices agreed with the lower court, Mrs. Webb and the City of St. Louis were forced to pay Mrs. Franke for the loss of her son due to their negligence.

Was this judgment fair? When looking strictly at the evidence, were Mrs. Webb and the City guilty of negligence? If this same trial were held today, over 100 years later, would the verdict be the same? Have our thoughts about justice changed in 100 years? Have our thoughts about responsibility changed? Would the actions of the city building inspector automatically be assumed to be competent today as they were by two justices in 1892? Would we agree with the jury, which thought both Mrs. Webb and the city were guilty? What do **you** think?

**APPENDIX
NEWSPAPER ARTICLE
ABOUT
FREDERICK FRANKE**

DANGER ON FOURTH STREET.

**A Fire Ruin Which Very Nearly Killed
Three Persons To-Day.**

As Fred Frankie was passing the building on Fourth, north of Locust street, which was recently almost wholly destroyed by fire, about 11 o'clock this morning, a stone six feet long by two feet wide fell from the facing at the fourth story. It hit him a glancing blow on the head, rendering him unconscious. Two ladies were passing at the time and narrowly escaped being killed. Frankie, who is 15 years of age and employed at the Lungstras dye-house, 105 North Sixth street, was carried to the drugstore at Fourth and Locust streets where he was revived and declared himself all right, insisting on returning to work. The police state that the wall of the building where the accident occurred is very insecure and dangerous.

- St. Louis Post-Dispatch
Feb. 29, 1888

APPENDIX
WITNESS SUBPOENA
THE FRANKE TRIAL

STATE OF MISSOURI,

To Benjamin Lynde

GREETING:

You are hereby Commanded, That, setting aside all manner of excuse and delay, you appear before our Circuit Court, City of St. Louis (at Court Room No. 4), at the City of St. Louis, on the Twelfth day of November 1888, at 10 o'clock A. M., then and there to testify, and the truth to say, in a certain case pending in said Court, wherein Julia Francke is plaintiff and City of St. Louis Etal. are defendants on the part of the defendants and herein you are in no wise to fail.

WITNESS, PHILIP H. ZEPP, Clerk of our said Court, with the seal thereof hereto affixed, at office, in the City of St. Louis this Ninth day of November in the year of our Lord eighteen hundred and eighty-eight.

Philip H. Zepp Clerk.

APPENDIX
JURY DECISION
THE FRANKE TRIAL

Julia Franke
Plaintiff
vs.
The City of St. Louis
et al Defendants

In the Circuit
Court of St. Louis
No. 4

We the jury in the above entitled cause
find for the defendant Hugh R. Hildreth
James O. Phelps
Foreman

We the jury in the above entitled cause
find in favor of the plaintiff as against
The City of St. Louis and Rebecca Webb,
defendant, for the sum of Eighteen
hundred and Forty-six ~~and~~ ^{and} $\frac{66}{100}$
(\$1846.⁶⁶) Dollars,
James O. Phelps
Foreman

**FOR MORE INFORMATION ON THIS, AND OTHER IMPORTANT TRIALS,
CONTACT THE FOLLOWING NATIONAL PARKS:**

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Women's Rights National Historic Park
136 Fall Street
Seneca Falls, New York 13148
(315) 568-2991
Fax (315) 568-2141
www.nps.gov/wori/



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